



United States Department of the Interior

FISH AND WILDLIFE SERVICE
1208-B Main Street
Daphne, Alabama 36526

IN REPLY REFER TO:

2015-1-0648

JUL 10 2015

Memorandum

To: Deputy Case Manager, *Deepwater Horizon* Department of the Interior Natural Resource Damage Assessment and Restoration (NRDAR)

From: Field Supervisor, Alabama Ecological Services Field Office *For EA Spitz*

Subject: Informal Consultation and Conference for the Proposed Osprey Restoration Project in Mobile and Baldwin Counties

This memorandum acknowledges our receipt of your memorandum on June 18, 2015. This response is in accordance with Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (ESA). We have reviewed your proposed project and concur with your June 18, 2015 determinations for endangered and threatened species, their critical habitat, and at-risk species (should they become listed). We based our concurrence on the justification below. Where more than one justification was applicable, multiple boxes are checked and additional comments are added.

☐ Species-specific surveys were conducted and there are no endangered, threatened, or at-risk species or designated critical habitat on site. Comments:

☒ Endangered, threatened, and at-risk species are not known from and are not expected to occur within the vicinity of the proposed project. Comments: No activity will occur on Gulf facing beaches or dunes, therefore there are no effects to sea turtles, piping plover, red knot, or wood stork. Gopher tortoise and black pine snake habitat is not present in the project area.

☒ Appropriate avoidance and minimization measures have been included within the project description to ensure that any effects to listed species (or at-risk species should they become listed) are insignificant or discountable. Comments: Project activities will be selected to avoid dune habitats used by Alabama beach mouse (ABM). Prior to installation of any poles, the area will be searched for evidence of ABM and avoidance and minimization measures will be followed.

☐ Critical habitat is not present on site and does not occur within the vicinity of the proposed project. Comments: _____

☒ Appropriate avoidance and minimization measures have been included within the project description to ensure PCEs and/or critical habitat will not be adversely modified or destroyed. Comments: No project activities will occur in ABM critical habitat.

☐ The proposed project is completely beneficial to the listed or at-risk species and/or critical habitat considered. Comments: _____

Unless the project description changes, or new information reveals that the effects of the proposed action may affect listed species in a manner or to an extent not considered, or a new species or critical habitat is designated that may be affected by the proposed action, no further action pursuant to the ESA is necessary.

If you have questions, please contact Shannon Holbrook at 251-441-5871 or email Shannon_holbrook@fws.gov.

Endangered Species Act Biological Evaluation Form

Deepwater Horizon Oil Spill Restoration

Fish and Wildlife Service & National Marine Fisheries Service

This form will be used to provide information for the initiation of informal Section 7 consultations under the Endangered Species Act, if required or to document a No Effect determination. In addition, information provided in this form may be used to inform other regulatory compliance processes such as Essential Fish Habitat (EFH), Marine Mammal Protection Act (MMPA), Section 106 of the National Historic Preservation Act (NHPA), Migratory Bird Treaty Act (MBTA), and Bald and Golden Eagle Protection Act (BGEPA). Further information may be required beyond what is captured in this form. Note: if you need additional space for writing, please attach pages as needed.

A. Project Identification

<i>Lead Agency</i>			
U.S. Fish and Wildlife Service/National Marine Fisheries Service		<i>Phone</i>	<i>Email</i>
<i>Agency Contact Person</i>		812-756-2712 and	Ashley_Buchanan@fws.gov and
Ashley Mills and Laurel Jennings		206-526-4601	Laurel.Jennings@noaa.gov
<i>I. Applicant Agency or Business Name</i>			
Alabama Department of Conservation and Natural Resources			
<i>II. Applicant Contact Person</i>	<i>III. Phone</i>	<i>Email</i>	
Will Brantley	(334) 242-3484	Will.Brantley@dcnr.alabama.gov	
<i>IV. Project Name and ID# (Official name of project and ID number assigned by action agency)</i>			
Osprey Restoration in Coastal Alabama			
<i>V. Project Type</i>			
Other			
<i>VI. NMFS Office (Choose appropriate office based on project location)</i>			
NMFS Southeast Regional Office			
<i>VII. FWS Office (Choose appropriate office based on project location)</i>			
Alabama Ecological Services Field Office (Daphne)			

B. Project Location

<i>I. Physical Address of Project Site (If applicable)</i>
N/A
<i>II. State & County/Parish of Project Site</i>
Mobile and Baldwin Counties, Alabama
<i>III. Latitude & Longitude for Project Site (Decimal degrees and datum [e.g., 27.71622°N, 80.25174°W NAD83] [online conversion: http://transition.fcc.gov/mb/audio/bickel/DDDMSS-decimal.html])</i>
TBD
<i>IV. Township, range and section of the project area</i>
TBD

C. Description of Action Area

1. Attach a separate map delineating where the action will occur. 2. Describe ALL areas that may be affected directly or indirectly by the Federal action and not merely the immediate project site involved in the action, or just where species or critical habitat may be present. Provide a description of the existing environmental conditions and characteristics (e.g., topography, vegetation type, soil type, substrate type, water quality, water depth, tidal/riverine/estuarine, hydrology and drainage patterns, current flow and direction), and land uses (e.g., public, residential, commercial, industrial, agricultural). 3. If habitat for species is present in the action area, provide a general description of the current state of the habitat. 4. Identify any management or other activities already occurring in the area. 5. Detailed map of the area of potential effect for ground disturbing activities if it is different from the project area

This project will take place in Mobile and Baldwin Counties, Alabama.

The exact locations of the five (5) osprey platforms to be constructed have not been determined though general locations have been selected (see maps). Soils and vegetation type will vary by location. However, all platforms will be placed in upland or wetlands areas adjacent to or within line-of-sight of large water-bodies. The ADCNR will make all efforts to place platforms in upland location. However, some platforms may be placed in adjacent wetlands. No vehicles or construction equipment will be placed or operated in wetlands during any portion of project implementation. No platforms will be placed within open water. The platforms will be placed as far away from human activities, such as roads, parking lots, developments, as practical. Ground disturbance will be limited to the boring of the hole for the platform.

a. *Waterbody*
(If applicable. Name the body of water, including wetlands (freshwater or estuarine), on which the project is located. If the location is in a river or estuary, please approximate the navigable distance from the project location to the marine environment.)

Platforms will be placed adjacent to or within line-of-sight of large water-bodies in Mobile and Baldwin Counties. This may include Shelby Lake, Little Lagoon, Bon Secour Bay, Mobile Bay, Mississippi Sound and similar waterbodies. No platforms will be placed in open water. The ADCNR will make all efforts to place platforms in upland location. However, some platforms may be placed in adjacent wetlands. No vehicles or construction equipment will be placed or operated in wetlands during any portion of project implementation.

b. *Existing Structures*
(If applicable. Describe the current and historical structures found in the project area (e.g., buildings, parking lots, docks, seawalls, groynes, jetties, marina.)). If known, please provide the years of construction.

The exact location of the platforms is to be determined. The platforms will be placed as far away from human activities, such as roads, parking lots, developments, as practical.

c. *Seagrasses & Other Marine Vegetation*
(If applicable. Describe seagrasses found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the seagrasses in the project area.)

NA

d. *Mangroves*
(If applicable. Describe the mangroves found in project area. Indicate the species found (red, black, white), the species area of coverage in square footage and linear footage along project shoreline. Attach a separate map showing the location of the mangroves in the project area.)

NA

e. *Corals*
(If applicable. Describe the corals found in project area. If a benthic survey was done, provide the date it was completed and a copy of the report. Estimate the species area of coverage and density. Attach a separate map showing the location of the corals in the project area.)

NA

f. *Uplands*
(If applicable. Describe the current terrestrial habitat in which the project is located (e.g. pasture, forest, meadows, beach and dune habitats, etc.).

Upland habitat may consist of disturbed areas, meadows and similar habitat. No platforms will be placed in any designated critical habitat of any protected species. For those areas outside of critical habitat, the site will be evaluated by qualified ADCNR staff prior to and during construction to minimize potential impacts to protected species. The construction period at each site is less than one day and is expected to last approximately two hours, during which time ADCNR staff will be on site to monitor for species.

D. Project Description

I. Construction Schedule (What is the anticipated schedule for major phases of work? Include duration of in-water work.)

Once a contractor is selected, the placement of each platform will take less than one day, for a total of 5 days of actual on-site construction activities. There will be no in-water work.

II. Describe the Proposed Action: 1. What is the purpose and need of the proposed action? 2. How do you plan to accomplish it? Describe in detail the construction equipment and methods** needed; permanent vs. temporary impacts; duration of temporary impacts; dust, erosion, and sedimentation controls; restoration areas; if the project is growth-inducing or facilitates growth; whether the project is part of a larger project or plan; and what permits will need to be obtained. 3. Attach a separate map showing project footprint, avoidance areas, construction accesses, staging/laydown areas. **If construction involves overwater structures, pilings and sheetpiles, boat slips, boat ramps, shoreline armoring, dredging, blasting, or artificial reefs, list the method here, but complete the next section(s) in detail.

The proposed action is the placement of five (5) osprey nesting platforms to provide additional predator-free nesting sites for Osprey. This will be accomplished by placing five (5) single pole supported nesting platforms at various sites in Mobile and Baldwin Counties. General locations for each of the platforms have been established. To determine specific sites, ADCNR will carefully select the final platform locations using best professional judgment for where the platforms would be most successful, and minimize potential adverse impacts.

Platforms will be installed using a long-arm bucket/boom truck with augur. Construction will take place by accessing suitable sites along upland access routes. Once on-site, a hole of the appropriate depth will be bored with an augur and the platform raised into position with a bucket truck. Nesting platforms will be pre-constructed and attached to the top of a single pole. Poles will be either pre-stressed concrete or pressure treated timber and will likely have a bottom diameter of 16-24". All poles will have a section of sheet metal attached at least 5' above ground level to act as a predator guard. Bracing wires will not be used. Actual on-site construction time is expected to last approximately two hours.

Platforms will be placed adjacent to or within line-of-of major water-bodies. Platforms will be placed in uplands to the maximum extent practical but some may also be placed in wetlands. However, the placement of single poles in wetlands is generally not subject to wetland permitting requirements and/or will be covered under existing General Permits. If a platform pole is placed in wetlands, all operations will take place within reach of the installation truck's long-arm boom. No vehicles or construction equipment will be placed or operated in wetlands during any portion of project implementation. Any soil displaced by auguring and pole placement will be removed from wetlands.

The following guidelines would be followed for determining platform location:

No platforms will be placed in open water.

No platforms will be placed in any designated critical habitat.

Platforms will not be placed on Gulf-fronting beaches and dunes.

No platforms will be placed in locations in Mobile County known to have gopher tortoises. In Baldwin County, platforms will be placed below elevations where gopher tortoises are expected to occur, where elevation is defined as ground height above mean sea level. Platforms will be placed adjacent to tidal waterbodies, which are generally below the elevation where gopher tortoises are known to dig their burrows. This is because the water table is 1-2' below ground surface elevation and gopher tortoises do not utilize flooded burrows. In the event that a platform is placed at a higher elevation, the vehicle access route and the area within a 100' radius of the platform location will be thoroughly visually inspected to ensure that there are no tortoise burrows present prior to and during construction.

Platforms will not be placed in upland pine forest where black pine snakes are expected to occur.

III. *Specific In-Water Construction Methods (Provide a detailed account of construction methods. It is important to include step-by-step descriptions of how demolition or removal of structures is conducted and if any debris will be moved and how. Describe how construction will be implemented, what type and size of materials will be used and if machines will be used, manual labor, or both. Indicated if work will be done from upland, barge, or both.)*

a. *Overwater Structures (Place your answers to the following questions in the box below.)*

- Is the proposed use of this structure for a docking facility or an observation platform?*
- If no, is this a fishing pier? Public or Private? How many people are expected to fish per day? How do you plan to address hook and line captures?*
- Use of "Dock Construction Guidelines"? <http://sero.nmfs.noaa.gov/pr/Endangered%20species/Section%207/DockGuidelines.pdf>*
- Type of decking: Grated – 43% open space; Wooden planks or composite planks – proposed spacing?*
- Height above Mean High Water (MHW) elevation?*
- Directional orientation of main axis of dock?*
- Overwater area (sqft)?*
- Use of "Sea Turtle and Smalltooth Sawfish Construction Conditions, March 2006"? <http://sero.nmfs.noaa.gov/pr/Endangered%20species/Sea%20Turtle%20and%20Smalltooth%20Sawfish%20Construction%20Conditions%203-23-06.pdf>*

NA

b. *Pilings & Sheetpiles (What type of material is the piling or sheetpiles? What size and how many will be used? Method used to install: impact hammer, vibratory hammer, jetting, etc.?)*

NA

c. *Boat Slips (Describe the number and size of slips and if the number of new slips changes from what is currently available at the project. Indicate how many are wet slips and how many are dry slips. Estimate the shadow effect of the boats - the area (sqft) beneath the boats that will be shaded.)*

NA

d. *Boat Ramp (Describe the number and size of boat ramps, the number of vessels that can be moored at the site (e.g., staging area) and if this is a public or private ramp. Indicate the boat trailer parking lot capacity, and if this number changes from what is currently available at the project.)*

NA

- e. *Shoreline Armoring (This includes all manner of shoreline armoring (e.g., riprap, seawalls, jetties, groins, breakwaters, etc.). Provide specific information on material and construction methodology used to install the shoreline armoring materials. Include linear footage and square footage. Attach a separate map showing the location of the shoreline armoring in the project area.)*

NA

- f. *Dredging or digging (Provide details about dredge type (hopper, cutterhead, clamshell, etc.), maximum depth of dredging, area (ft²) to be dredged, volume of material (yd³) to be produced, grain size of material, sediment testing for contamination, spoil disposition plans, and hydrodynamic description (average current speed/direction)).*

Platforms will be installed using a long-arm bucket/boom truck with augur. Construction will take place by accessing suitable sites along upland access routes. Once on-site, a hole of the appropriate depth will be bored with an auger and the platform raised into position with a bucket truck.

- g. *Blasting (Projects that use blasting might not qualify as "minor projects," and a Biological Assessment (BA) may need to be prepared for the project. Arrange a technical consultation meeting with NMFS Protected Resources Division to determine if a BA is necessary. Please include explosive weights and blasting plan.)*

NA

- h. *Artificial Reefs (Provide a detailed account of the artificial reef site selection and reef establishment decisions (i.e., management and siting considerations, stakeholder considerations, environmental considerations), deployment schedule, materials used, deployment methods, as well as final depth profile and overhead clearance for vessel traffic. For additional information and detailed guidance on artificial reefs, please refer to the artificial reef program websites for the particular state the project will occur in.*

NA

E. Species & Critical Habitat

1. List all species, critical habitat, proposed species and proposed critical habitat that may be found in the action area.

2. Attach a separate map identifying species/critical habitat locations within the action area.

For information on species and critical habitat under FWS jurisdiction, visit <http://www.fws.gov/endangered/species/>.

Under NMFS jurisdiction,

visit: http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/Documents/aulf_of_mexico.pdf.

SPECIES and/or CRITICAL HABITAT (CH)	STATUS	CH UNIT
Alabama beach mouse	Endangered	
gopher tortoise - Mobile county	Threatened	
gopher tortoise - Baldwin county	Candidate Species	
black pine snake	Proposed Threatened	
loggerhead sea turtle (terrestrial)	Threatened	
green sea turtle (terrestrial)	Threatened	
Kemp's ridley sea turtle (terrestrial)	Endangered	
hawksbill sea turtle (terrestrial)	Endangered	
leatherback sea turtle (terrestria)	Endangered	
pipin plover	Threatened	
red knot	Threatened	
wood stork	Threatened	
eastern indigo snake	Threatened	
	Select One	
	Select One	
	Select One	

F. Effects of the Proposed Project

- I. *Explain the potential beneficial and adverse effects to each species listed above (Describe what, when, and how the species will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects. If species are present (or potentially present) and will not be adversely affected describe your rationale. If species are unlikely to be present in the general area or action area, explain why. This justification provides documentation for your administrative record, avoids the need for additional correspondence regarding the species, and helps expedite review.)*

This project involves installing 5 poles, which have a cumulative ground impact of less than 10 square feet over two counties.

No activity will occur on Gulf facing beaches or dunes. Therefore no effects to 5 species sea turtles, piping plovers, or red knots are anticipated.

In Mobile County, no activity (including site access or staging) will occur in habitats that support the gopher tortoise (listed entity). Therefore, no effects to the listed gopher tortoise will occur. In Baldwin County, where the species is considered a candidate for listing, platforms will be placed below elevations where gopher tortoises are expected to occur. Elevation is defined as ground height above mean sea level. Platforms will be placed adjacent to tidal waterbodies, which are generally below the elevation where gopher tortoises are known to dig their burrows. This is because the water table is 1-2' below ground surface elevation and gopher tortoises do not utilize flooded burrows. In the event that a platform is placed at a higher elevation in Baldwin County, the vehicle access route and the area within a 100' radius of the platform location will be thoroughly visually inspected to ensure that there are no tortoise burrows present prior to and during construction. If gopher tortoises or their burrows are found, the access route or platform will be moved to avoid the tortoise. Therefore, no effects to the candidate gopher tortoise are anticipated.

Platforms will not be placed in upland pine forest where black pine snakes are expected to occur. Therefore no effects to the black pine snake are anticipated.

Based on information from the USFWS website, the eastern indigo snake is considered extirpated in Alabama and therefore the presence of this species in the project area is extremely unlikely. Additionally, in the northern portion of its range, which includes southern Alabama, the eastern indigo snake requires deep sand ridges and is normally associated with the gopher tortoise. The eastern indigo snake is dependent upon the deep burrows dug by the gopher tortoise and uses them as a refuge from the extreme hot and cold temperatures. This restricted habitat is even more isolated by the snakes' preference for the interspersed wet lowlands like ty-ty swamps and cypress ponds. These preferred areas are usually found where rivers and creeks run through sand hills habitat. As previously noted, the proposed osprey platform locations will be located below elevations where gopher tortoises are known to occur. Platforms will not be located along deep sandy ridges. Additionally, in the northern part of its range, the eastern indigo snake was not historically known to associate with salt or brackish tidal wetlands, further reducing the likelihood of its occurrence in the project area. Therefore, no effects to the eastern indigo snake are anticipated.

Wood storks are not known to breed in coastal Alabama. No known wood stork foraging or roosting sites are located in the direct vicinity of any proposed platform locations. Therefore, no effects to wood storks are anticipated. +

- II. *Explain the potential beneficial and adverse effects to critical habitat listed above (Describe what, when, and how the critical habitat will be impacted and the likely response to the impact. Be sure to include direct, indirect, interdependent, interrelated, connected actions, and cumulative impacts. Where possible, quantify effects (e.g. acres of habitat, miles of habitat). Describe your rationale if designated or proposed critical habitats are present and will not be adversely affected.*

No activities will occur within critical habitat for any species during construction, maintenance, or monitoring of platforms; therefore none will be adversely modified or destroyed.

G. Actions to Reduce Adverse Effects

<p>I.</p>	<p><i>Explain the actions to reduce adverse effects to each species listed above (For each species for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinitiate this consultation.)</i></p> <p>General locations for each of the platforms have been established (see maps). To determine specific sites, ADCNR will carefully select the final platform locations using best professional judgment for where the platforms would be most successful, and minimize potential adverse impacts. The following guidelines would be followed:</p> <p>The construction period at each site is less than one day and is expected to last approximately two hours, during which time ADCNR staff will be on site to monitor for species.</p> <p>No platforms will be placed in open water.</p> <p>No platforms will be placed in any designated critical habitat.</p> <p>Platforms will not be placed on Gulf-fronting beaches and dunes.</p> <p>No platforms will be placed in locations in Mobile County known to have gopher tortoises. In Baldwin County, platforms will be placed below elevations where gopher tortoises are expected to occur, where elevation is defined as ground height above mean sea level. Platforms will be placed adjacent to tidal waterbodies, which are generally below the elevation where gopher tortoises are known to dig their burrows. This is because the water table is 1-2' below ground surface elevation and gopher tortoises do not utilize flooded burrows. In the event that a platform is placed at a higher elevation, the vehicle access route and the area within a 100' radius of the platform location will be thoroughly visually inspected to ensure that there are no tortoise burrows present prior to and during construction.</p> <p>Platforms will not be placed in upland pine forest where black pine snakes are expected to occur.</p> <p>If a platform is placed in wetlands, no vehicles or construction equipment will be placed or operated in wetlands during any portion of project implementation. The platform will be placed within reach of the vehicle boom and any soil augured out of the placement hole will be removed from wetlands once the pole is set.</p> <p>No project activities will take place in ABM critical habitat. In general, the location of the proposed platform on Fort Morgan will be sited to avoid dune habitats used by the beach mouse, specifically avoiding designated critical habitat. Because beach mouse can occur in a wide variety of sandy dune habitats (primary, secondary, and scrub dunes) and because the Ft Morgan peninsula consists mostly of these habitat types, the ABM could be present. However, to minimize effects to ABM, the site selected would not be on primary or secondary dunes and will be accessible via existing access roads. Prior to installing the platform, the area would be searched for evidence of beach mouse use and areas of use would be avoided to minimize noise and overall disturbance for the duration of the pole installation. It is extremely unlikely that the placement of one platform pole would hit a burrow.</p>
<p>II.</p>	<p><i>Explain the actions to reduce adverse effects to critical habitat listed above (For critical habitat for which impacts were identified, describe any conservation measures (e.g. BMPs) that will be implemented to avoid or minimize the impacts. Conservation measures are designed to avoid or minimize effects to listed species and critical habitats or further the recovery of the species under review. Conservation measures are considered part of the proposed action and their implementation is required. Any changes to, modifications of, or failure to implement these conservation measures may result in a need to reinitiate this consultation.)</i></p> <p>No activities will occur in critical habitat for any species, therefore additional conservation measures are not needed.</p>

H. Effect Determination Requested

From the sections above, there should be enough detailed information to provide clear and obvious support for your determinations in the section below. If the rationale for the determination is not clear, additional information must be added to one of the sections. Identify if gulf sturgeon are in saltwater, estuarine, or in freshwater in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. gulf sturgeon CH - saltwater). Identify if sea turtles are in water or on land in your Species and/or Critical Habitat list to determine which federal agency will perform the analysis (e.g. Loggerhead sea turtle CH - terrestrial).

SPECIES and/or CRITICAL HABITAT	DETERMINATION (see definitions below)
Alabama beach mouse	May Affect, Not Likely to Adversely Affect
gopher tortoise	No Effect
black pinesnake	No Effect
eastern indigo snake	No Effect
loggerhead sea turtle	No Effect
green sea turtle	No Effect
Kemp's ridley sea turtle	No Effect
hawksbill sea turtle	No Effect
leatherback sea turtle	No Effect
pipin plover	No Effect
red knot	No Effect
wood stork	No Effect
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate
	Select Most Appropriate

NE = no effect. This determination is appropriate when the proposed action will not directly, indirectly, or cumulatively impact, either positively or negatively, any listed, proposed, candidate species or designated/proposed critical habitat.

NLAA = not likely to adversely affect. This determination is appropriate when the proposed action is not likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat or there may be beneficial effects to these resources. Response requested is "Concurrence." This conclusion is appropriate when effects to the species or critical habitat will be beneficial, discountable, or insignificant. Beneficial effects are contemporaneous positive effects without any adverse effects to the species or habitat. Insignificant effects relate to the size of the impact, while discountable effects are those that are extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur. If the Services concur in writing with the Action Agency's determination of "is not likely to adversely affect" listed species or critical habitat, the section 7 consultation process is completed.

LAA = likely to adversely affect. This determination is appropriate when the proposed action is likely to adversely impact any listed, proposed, candidate species or designated/proposed critical habitat. Response requested for listed species is "Formal Consultation". Response requested for proposed and candidate species is "Conference." This conclusion is reached if any adverse effect to listed species or critical habitat may occur as a direct or indirect result of the proposed action or its interrelated or interdependent actions, and the effect is not discountable or insignificant. In the event the overall effect of the proposed action is beneficial to the listed species or critical habitat, but may also cause some adverse effect on individuals of the listed species or segments of the critical habitat, then the determination should be "is likely to adversely affect." Such a determination requires formal section 7 consultation and will require additional information.

JP = likely to jeopardize proposed species/adversely modify proposed critical habitat. For proposed species and proposed critical habitats, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the proposed species or adversely modify an area proposed for designation as critical habitat. If you reach this conclusion, a section 7 conference is required.

JC = likely to jeopardize candidate species. For candidate species, the Service is required to evaluate whether the proposed action is likely to jeopardize the continued existence of the candidate species. If this conclusion is reached, intra-Service section 7 conference is required.

I. Bald Eagles

Are bald eagles present in the action area? ☐ NO ☒ YES

If YES, the following conservation measures should be implemented:

1. If bald eagle breeding or nesting behaviors are observed or a nest is discovered or known, all activities (e.g., walking, camping, clean-up, use of a UTV, ATV, or boat) should avoid the nest by a minimum of 660 feet. If the nest is protected by a vegetated buffer where there is *no* line of sight to the nest, then the minimum avoidance distance is 330 feet. This avoidance distance shall be maintained from the onset of breeding/courtship behaviors until any eggs have hatched and eaglets have fledged (approximately 6 months).
2. If a similar activity (e.g., driving on a roadway) is closer than 660 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
3. If a vegetated buffer is present and there is no line of sight to the nest and a similar activity is closer than 330 feet to a nest, then you may maintain a distance buffer as close to the nest as the existing tolerated activity.
4. In some instances activities conducted within 660 feet of a nest may result in disturbance, particularly for the eagles occupying the Mississippi barrier islands. If an activity appears to cause initial disturbance, the activity shall stop and all individuals and equipment will be moved away until the eagles are no longer displaying disturbance behaviors.

If these measures cannot be implemented, then you must contact the Service's Migratory Bird Permit Office.

Texas – (505) 248-7882 or by email: permitsR2MB@fws.gov

Louisiana, Mississippi, Alabama, Florida – (404) 679-7070 or by email: permitsR4MB@fws.gov

J. Migratory Birds

Identify the species anticipated in the project area and behaviors (breeding, roosting, foraging) anticipated during project implementation. You may list similar species on a single line and categorize by type (e.g., Wading birds - great blue heron, snowy egret, reddish egret). Use additional tables on the next page if needed.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS
Osprey/bald eagles	Breeding/Foraging/Resting	Project construction will have short-term temporary noise from the use of heavy machinery and vehicles during daylight hours. Activity at a site is expected to last approximately 1 day with construction approximately 2 hours. Noise and human disturbance could disrupt foraging, resting and breeding and could cause birds to flush from nests.
Songbirds	Breeding/Foraging/Resting	
Wading Birds	Foraging/Resting	
		Upon project completion, osprey breeding is expected to increase as they will have 5 new nesting sites with predator exclusions to use. Given the size of the platforms, bald eagles are not likely to use these sites.

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS
All Species	<p>If bald eagles are present during construction, the conservation measures above in Section I. will be implemented.</p> <p>No trees or shrubs will be cleared or cut to gain access to a site location or to install a platform. All work will be conducted during daylight hours.</p> <p>Platforms will be installed during the late Fall and Winter, therefore there will be no disturbance to breeding birds and no loss of eggs, chicks, or juveniles.</p> <p>Installation will take less than one day lasting approximately two hours. Therefore, noise and disturbances that could interrupt foraging or resting will be limited. All bird species found in coastal Alabama that may leave the site due to the temporary presence of vehicles and humans are expected to return to the site after the short construction period.</p>

Migratory Birds

Continuation page if needed.

II.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

III.

SPECIES/SPECIES GROUP	BEHAVIOR	SPECIES/HABITAT IMPACTS

If species or habitat impacts could occur, identify avoidance and minimization measures to prevent incidental take. Incidental take of Migratory Birds cannot be authorized.

SPECIES/SPECIES GROUP	CONSERVATION MEASURES TO MINIMIZE IMPACTS

Pre-existing NEPA Documents

Yes



No



Does this project have any pre-existing, site specific NEPA analysis? If YES, then provide final NEPA analysis, if not final then provide draft. If tiered from a programmatic EIS or EA, then provide the programmatic document or a link below.

Tiered from the Phase III ERP/PEIS - <http://www.doi.gov/deepwaterhorizon/adminrecord/phase-iii-early-restoration.cfm>

NMFS ESA §7 Consultation

We request that all ESA §7 consultation requests/packages be submitted electronically to:

Laurel.Jennings@noaa.gov. Questions about consultation status may be directed to the same email address or by phone, 206-526-4601 or 206-794-4761 (cell).

FWS ESA § 7 Consultation

We request that all consultation requests/packages to FWS be submitted electronically to:

Ashley_Buchanan@fws.gov. You will be notified when we receive your Biological Evaluation. Upon receipt, we will conduct a preliminary review and provide any comments and feedback, including any requests for modifications or additional information. If modifications or additional information is necessary, we will work with you until the Biological Evaluation form is considered complete. Once complete, we will send your Biological Evaluation to the appropriate Field Office to conduct consultation. If you have questions about consultation status, please contact Ashley Mills by phone 812-756-2712 or email Ashley_Buchanan@fws.gov.

Name of Person Completing this Form:

Carl Ferraro

Name of Project Lead:

Date Form Completed:

03/04/2015

April 30, 2015

Osprey Restoration in Coastal Alabama project

Potential locations to install osprey nesting platforms

Figure 1: Potential Osprey Restoration Locations in the Vicinity of Portersville Bay



Figure 2: Potential Osprey Restoration Locations in the Vicinity of Dauphin Island



Figure 3: Potential Osprey Restoration Locations in the Vicinity of Fort Morgan



Figure 4: Potential Osprey Restoration Locations in the Vicinity of Little Lagoon, Gulf Shores



Figure 5: Potential Osprey Restoration Locations in Gulf State Park

